REMARKS

Claims 1-14 are all the claims pending in the application. Claims 1-14 are hereby amended. No new matter is added.

Specification

The Examiner objects to the Abstract of the Disclosure because it contains the word "said." Applicant hereby amends the Abstract of the Disclosure to remove the term "said," and therefore respectfully requests that the Examiner withdraw this objection.

Claim Objections

The Examiner objects to claims 1-14 due to certain informalities of language in the preamble of the claims. Applicant hereby amends these claims in compliance with the Examiner's comments, and therefore respectfully requests that the Examiner withdraw the objections. Applicant also amends claims 9, 13, and 14 to remove the "adapted to" language.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-4 and 9-12 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Washabaugh et al. (US 7,023,856) ("Washabaugh"). Applicant traverses this ground of rejection for at least the following reasons.

Applicant submits that Washabaugh fails to teach or suggest a method for engineering traffic between an ingress router and an egress router of a packet network, the method comprising, *inter alia*, "determining a *part of the traffic* which will follow a dedicated tunnel between said ingress router and an egress router" and "provisioning a tunnel queue dedicated to said *part of the traffic* intended to flow via said dedicated tunnel, for separately and temporarily storing said part of the traffic towards said dedicated tunnel," as recited in claim 1 (emphasis

added). On the contrary, Washabaugh differentiates *all* incoming packets based on the service class, which is derived from the header of the packet, and subsequently queues these packets in a queue that corresponds to a certain class of traffic within a certain virtual circuit that corresponds to a user (col. 3, lines 45-50). This is done in order to provide the user with different levels of service using a single virtual circuit. Therefore, in Washabaugh *all* traffic is routed via a tunnel towards the corresponding virtual circuit.

Accordingly, claim 1 distinguishes over Washabaugh at least by virtue of the aforementioned differences, as well as its additionally recited features. Because claim 9 recites features similar to those discussed above with respect to claim 1, Applicant submits that claim 9 distinguishes over Washabaugh for similar reasons. Further, claims 2-4 and 10-12 distinguish over Washabaugh at least by virtue of their respective dependencies on claims 1 and 9, as well as their additionally recited features.

Claim Rejections Under 35 U.S.C. § 103

Claims 5-7 and 13-14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Washabaugh in view of Goguen et al. (US 6,665,273) ("Goguen"). Applicant traverses this ground of rejection for at least the following reasons.

Claims 5-7, 13, and 14

As discussed above, Washabaugh fails to teach or suggest "determining a *part of the traffic* which will follow a dedicated tunnel between said ingress router and an egress router" and "provisioning a tunnel queue dedicated to said *part of the traffic* intended to flow via said dedicated tunnel, for separately and temporarily storing said part of the traffic towards said dedicated tunnel" (emphasis added). Further, Applicant submits that Goguen fails to remedy

these deficiencies in Washabaugh. Therefore, claims 5-7, 13, and 14 are patentable over Washabaugh and Goguen at least by virtue of the aforementioned differences, as well as their additionally recited features.

Further, claim 5 recites "depending upon the result of said comparing, informing a network administrator of information regarding the result of said comparing by sending a message to said network administrator." Claim 13 recites similar features. The Examiner contends that Goguen teaches "informing a network administrator by sending a message to the network administrator," as recited in original claim 5, asserting that the "TE module" of Goguen corresponds to a network administrator. (Office Action at 8.) The Examiner cites col. 8, lines 57-60 as support for this proposition. Id. This portion of Goguen appears to state only that "the autobandwidth module causes the TE module to adjust the bandwidth."

First, Goguen elsewhere states that the "MPLS system 700 of FIG. 7, among others, comprises a traffic engineering (TE) module 710." (Goguen at col. 7, lines 36, 37.) Fig. 6 of Goguen clearly shows, therefore, that the TE module of the MPLS system 700 is within the memory unit 614 of a "network device 600 such as a router." (Goguen at col. 7, line 16.) Thus, the TE module is clearly not a "network administrator" as would be construed by one of ordinary skill in the art in the context of the present disclosure as a whole, as it is merely part of a module in the memory of a router.

Second, although the Examiner asserts that "it is inherent the TE module and the comparator communicates through messaging," Applicant respectfully disagrees. One of ordinary skill in the art would not find that "caus[ing] the TE module to adjust the bandwidth," as cited by the Examiner, would necessarily have to be performed through "messaging," where

the TE module merely resides within the memory of the same device. Any number of means could conceivably be used to "cause" the TE module to adjust the bandwidth, including merely calling a function. Furthermore, although Goguen contemplates the "autobandwidth module notifying the TE module," this likewise does not necessarily require the use of messages or messaging, as understood by one of ordinary skill in the art; notification in this context could refer, for example, to the setting of a flag bit or variable. Thus, the portions of Goguen cited by the Examiner fail to support an argument of inherency with respect to this element of claims 5 and 13.

With further regard to claim 14, the Examiner cites Goguen at col. 9, lines 20-25 as allegedly teaching that "the ingress router is further adapted to receive a predetermined message from the network administrator related to the enabling of a timer." (Office Action at 10.) First, neither previously presented claim 14, nor currently amended claim 14, recite "the enabling of a timer." Amended claim 14 requires the following:

> The ingress router according to claim 9, wherein:
>
> said at least one tunnel queue is enabled based on a determination as to whether or not to enable said at least one tunnel queue to receive packets intended for said at least one dedicated tunnel, said determination made from a predetermined message received from said network administrator, said message related to the enabling of said at least one tunnel queue.

Thus, amended claim 14 requires the enabling of the "at least one tunnel queue," and nowhere mentions a timer. The portion of Goguen cited by the Examiner merely describes the operation of a timer for timing the periodic scanning of tunnels for potential bandwidth adjustment. Claim 14 is completely different from the cited portion of Goguen, as it requires

enabling a tunnel queue based on a determination made from a predetermined message received from a network administrator.

Although the Examiner fails to address claim 8 in the instant Office Action, claim 8 recites features similar to those of claim 14. Applicant, therefore, respectfully submits that claim 8 is also patentable at least for reasons analogous to those presented above regarding claim 14.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Applicant herewith petitions the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time if necessary. Unless a check is attached, any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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23373
CUSTOMER NUMBER

Date: September 10, 2007